

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1646, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 2, between lines 28 and 29, begin a new paragraph and insert:
- 2 **"(f) As used in this chapter, "borrower's residential mortgage**
- 3 **loan application information" means the address of the proposed**
- 4 **residential real property to be mortgaged and borrower's essential**
- 5 **personal and financial information necessary for an informed**
- 6 **credit decision to be made on the borrower's mortgage loan**
- 7 **application."**
- 8 Page 2, line 29, reset in roman "(g)".
- 9 Page 2, line 29, delete "(f)".
- 10 Page 3, line 3, delete "(g)" and insert "**(h)**".
- 11 Page 3, line 7, strike "(h)" and insert "**(i)**".
- 12 Page 3, line 15, reset in roman "(j)".
- 13 Page 3, line 15, delete "(i)".
- 14 Page 3, line 21, reset in roman "(k)".
- 15 Page 3, line 21, delete "(j)".
- 16 Page 3, line 29, delete "(k)" and insert "**(l)**".
- 17 Page 3, line 35, delete "(l)" and insert "**(m)**".
- 18 Page 4, line 9, delete "(m)" and insert "**(n)**".
- 19 Page 4, line 12, delete "(n)" and insert "**(o)**".
- 20 Page 4, line 32, delete "(o)" and insert "**(p)**".
- 21 Page 5, line 7, delete "(p)" and insert "**(q)**".

- 1 Page 5, line 19, delete "(q)" and insert "**(r)**".
- 2 Page 5, line 25, delete "(r)" and insert "**(s)**".
- 3 Page 6, line 5, delete "(s)" and insert "**(t)**".
- 4 Page 6, line 13, delete "(t)" and insert "**(u)**".
- 5 Page 6, line 21, delete "(u)" and insert "**(v)**".
- 6 Page 6, line 24, delete "(v)" and insert "**(w)**".
- 7 Page 6, line 42, delete "(w)" and insert "**(x)**".
- 8 Page 10, line 30, delete "three" and insert "**five**".
- 9 Page 10, line 31, delete "(\$3,000,000)" and insert "**(\$5,000,000)**".
- 10 Page 10, line 32, delete "One hundred thousand dollars (\$100,000)"
- 11 and insert "**Sixty thousand dollars (\$60,000)**".
- 12 Page 10, line 34, delete "three" and insert "**five**".
- 13 Page 10, line 35, delete "(\$3,000,000)." and insert "**(\$5,000,000)**".
- 14 Page 10, line 35, delete "ten" and insert "**twenty**".
- 15 Page 10, line 36, delete "(\$10,000,000)." and insert
- 16 "**(\$20,000,000)**".
- 17 Page 10, line 37, delete "One hundred fifty thousand dollars
- 18 (\$150,000)" and insert "**Seventy-five thousand dollars (\$75,000)**".
- 19 Page 10, line 39, delete "ten" and insert "**twenty**".
- 20 Page 10, line 40, delete "(\$10,000,000)." and insert
- 21 "**(\$20,000,000)**".
- 22 Page 13, line 38, delete "Except as provided in subsection (f), if"
- 23 and insert "**If**".
- 24 Page 14, delete lines 4 through 30.
- 25 Page 17, line 33, after "within" insert "**not later than**".
- 26 Page 17, line 33, reset in roman "fifteen (15)".
- 27 Page 17, line 33, after "(15)" insert "**business days after receipt of**
- 28 **the request if the original order issued by the commissioner was a**
- 29 **summary suspension, summary revocation, or denial of a license**
- 30 **and**".
- 31 Page 17, line 34, after "request" insert "**for all other orders**".
- 32 Page 19, line 9, delete "suspend or".
- 33 Page 21, line 20, delete ";" and insert ";".
- 34 Page 22, line 24, after "within" insert "**not later than**".
- 35 Page 22, line 24, reset in roman "fifteen (15)".
- 36 Page 22, line 24, after "(15)" insert "**business days after the**
- 37 **commissioner receives a written request from the person**
- 38 **requesting a hearing if the original order issued by the**
- 39 **commissioner was a summary suspension, summary revocation, or**
- 40 **denial of a license and**".
- 41 Page 22, line 24, after "(45)" insert "**business**".
- 42 Page 22, line 26, delete "." and insert "**for all other orders**".

Page 33, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 19. IC 23-2-5-24 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 24. In the securities divisions' investigative, examination, and regulatory activities related to licensees under this article, the securities division may cooperate with the Indiana department of financial institutions in the regulation of a licensee that conducts:**

(1) **business under this article; and**

(2) **business that requires licensure under IC 24-4.4.**

SECTION 20. IC 23-2-5-25 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 25. Subject to IC 5-14-3, the commissioner is required to regularly report:**

(1) **violations of this chapter; and**

(2) **enforcement actions and other relevant information; to the Nationwide Mortgage Licensing System and Registry.**

SECTION 21. IC 23-2-5-26 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 26. The commissioner shall establish a process by which a mortgage loan originator may challenge information entered into the Nationwide Mortgage Licensing System and Registry by the commissioner."**

Page 36, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 24. IC 23-19-6-4, AS ADDED BY P.L.27-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 4. (a) If the commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this article or a rule adopted or order issued under this article or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this article or a rule adopted or order issued under this article, the commissioner may:**

(1) **investigate and may issue, with or without a prior hearing, orders and notices as the commissioner determines to be in the public interest, including cease and desist orders, orders to show cause, and notices. After notice and hearing, the commissioner may enter an order of rescission, restitution, or disgorgement, including interest at the legal rate of interest, directed to a person who has violated this article or a rule or order under this article;**
 (2) **issue an order denying, suspending, revoking, or conditioning**

the exemptions for a broker-dealer under IC 23-19-4-1(b)(1)(D) or IC 23-19-4-1(b)(1)(F) or an investment adviser under IC 23-19-4-3(b)(1)(C); or
(3) issue an order under IC 23-19-2-4.

(b) An order under subsection (a) is effective on the date of issuance. Upon issuance of the order, the commissioner shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement whether the commissioner will seek a civil penalty or costs of the investigation, a statement of the reasons for the order, and notice that, within fifteen (15) days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the commissioner within forty-five (45) days after the date of service of the order, the order, which may include a civil penalty or costs of the investigation if a civil penalty or costs were sought in the statement accompanying the order, becomes final as to that person by operation of law. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

(c) If a hearing is requested or ordered under subsection (b), the hearing must be held ~~within~~ **not later than** fifteen (15) **business** days ~~of~~ **after receipt if the original order issued by the commissioner was a summary suspension, summary revocation, or denial of a license and not later than forty-five (45) business days after receipt for all other orders.** A final order may not be issued unless the commissioner makes findings of fact and conclusions of law in a record. The final order may make final, vacate, or modify the order issued under subsection (a).

(d) In a final order under subsection (c), the commissioner may impose a civil penalty up to ten thousand dollars (\$10,000) per violation. Penalties collected under this section shall be deposited in the securities division enforcement account established under section 1 of this chapter.

(e) In a final order, the commissioner may charge the cost of an investigation or proceeding for a violation of this article or a rule adopted or order issued under this article.

(f) If a petition for judicial review of a final order is not filed in accordance with section 9 of this chapter, the commissioner may file a certified copy of the final order with the clerk of a court with jurisdiction. The order so filed has the same effect as a judgment of the

1 court and may be recorded, enforced, or satisfied in the same manner
2 as a judgment of the court.

3 (g) If a person does not comply with an order under this section, the
4 commissioner may petition a court with jurisdiction to enforce the
5 order. The court may not require the commissioner to post a bond in an
6 action or proceeding under this section. If the court finds, after service
7 and opportunity for hearing, that the person was not in compliance with
8 the order, the court may adjudge the person in civil contempt of the
9 order. The court may impose a further civil penalty against the person
10 for contempt in an amount not greater than twenty thousand dollars
11 (\$20,000) for each violation and may grant any other relief the court
12 determines is just and proper in the circumstances.

13 (h) The commissioner shall send a certified copy of every final order
14 that suspends or revokes a person's registration under this article, or
15 that orders a person who is not registered under this article to cease and
16 desist from violating this article, to the insurance commissioner
17 appointed under IC 27-1-1-2. The insurance commissioner shall act in
18 accordance with IC 27-1-15.6-29.5."

19 Page 36, delete lines 23 through 42.

20 Delete pages 37 through 66.

21 Page 67, delete lines 1 through 25.

22 Page 67, delete lines 28 through 42.

23 Delete page 68.

24 Renumber all SECTIONS consecutively.

(Reference is to HB 1646 as printed February 20, 2009.)

and when so amended that said bill do pass .

Committee Vote: Yeas 9, Nays 0.

Senator Paul, Chairperson